

AMENDED IN SENATE AUGUST 15, 2016
AMENDED IN SENATE AUGUST 2, 2016
AMENDED IN SENATE JUNE 20, 2016
AMENDED IN ASSEMBLY JUNE 2, 2015
AMENDED IN ASSEMBLY MAY 13, 2015
AMENDED IN ASSEMBLY MAY 4, 2015
AMENDED IN ASSEMBLY APRIL 7, 2015
AMENDED IN ASSEMBLY MARCH 25, 2015
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 575

Introduced by Assembly Member O'Donnell

February 24, 2015

An act to amend Section 60200 of, and to add and repeal Section 60227 of, the Education Code, relating to instructional materials.

LEGISLATIVE COUNSEL'S DIGEST

AB 575, as amended, O'Donnell. Instructional materials: ~~follow-up~~ *followup* adoptions.

Existing law requires the State Board of Education to adopt instructional materials for kindergarten and grades 1 to 8, inclusive, and to adopt procedures for the submission of instructional materials, and provides that instructional materials may be submitted for adoption in specified subject areas every 8 years.

This bill would instead provide that instructional materials may be submitted for adoption at least once but no more than twice every 8

years. The bill, until January 1, 2024, would require the State Department of Education, before conducting a ~~follow-up~~ *followup* adoption, as defined, in a given subject area to post a notice on the department's Internet Web site and notify all publishers or manufacturers known to produce basic instructional materials in that subject area that each publisher and manufacturer choosing to participate in the ~~follow-up~~ *followup* adoption shall be assessed a fee, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 60200 of the Education Code is amended
2 to read:
3 60200. The state board shall adopt basic instructional materials
4 for use in kindergarten and grades 1 to 8, inclusive, for governing
5 boards, subject to the following provisions:
6 (a) The state board shall adopt at least five basic instructional
7 materials for all applicable grade levels in each of the following
8 subject areas:
9 (1) Language arts, including, but not limited to, spelling, reading,
10 and English language development. The state board may not adopt
11 basic instructional materials in this subject area or the subject area
12 specified by paragraph (2) in the year succeeding the year in which
13 the state board adopts basic instructional materials in this subject
14 area for the same grade level.
15 (2) Mathematics. The state board may not adopt basic
16 instructional materials in this subject area or the subject area
17 specified by paragraph (1) in the year succeeding the year in which
18 the state board adopts basic instructional materials in this subject
19 area for the same grade level.
20 (3) Science.
21 (4) Social science.
22 (5) Bilingual or bicultural subjects.
23 (6) Any other subject, discipline, or interdisciplinary areas for
24 which the state board determines the adoption of instructional
25 materials to be necessary or desirable.
26 (b) The state board shall adopt procedures for the submission
27 of basic instructional materials in order to comply with each of
28 the following:

1 (1) Instructional materials may be submitted for adoption in any
2 of the subject areas pursuant to paragraphs (1) to (6), inclusive, of
3 subdivision (a) at least once but not more than twice every eight
4 years. The state board shall ensure that curriculum frameworks
5 are reviewed and adopted in each subject area and that the criteria
6 for evaluating instructional materials developed pursuant to
7 subdivision (b) of Section 60204 are consistent with subdivision
8 (c). The state board may prescribe reasonable conditions to restrict
9 the resubmission of materials that have been previously rejected
10 if those resubmitted materials have no substantive changes.

11 (2) If a publisher or manufacturer submits revisions to currently
12 adopted instructional material for review after the timeframe
13 specified by the state board, the department shall assess a fee on
14 the submitting publisher or manufacturer in an amount that shall
15 not exceed the reasonable costs to the department to conduct a
16 review of the instructional material pursuant to this section.

17 (3) Submitted instructional materials shall be adopted or rejected
18 within six months of the submission date of the materials pursuant
19 to paragraph (1) unless the state board determines that a longer
20 period of time, not to exceed an additional three months, is
21 necessary due to the estimated volume or complexity of the
22 materials for that subject in that year, or due to other circumstances
23 beyond the reasonable control of the state board.

24 (4) The process for review of instructional materials shall
25 involve review committees, which shall include, but not be limited
26 to, volunteer content experts and instructional material reviewers,
27 and shall be composed of a majority of classroom teachers from
28 a wide variety of affected grade levels and subject areas.

29 (5) The rules and procedures for adoption of instructional
30 materials shall be transparent and consistently applicable regardless
31 of the format of the instructional materials, which may include,
32 but not be limited to, print, digital, and open-source instructional
33 materials.

34 (c) In reviewing and adopting or recommending for adoption
35 submitted basic instructional materials, the state board shall use
36 the following criteria, and ensure that, in its judgment, the
37 submitted basic instructional materials meet all of the following
38 criteria:

39 (1) Are consistent with the criteria and the standards of quality
40 prescribed in the state board's adopted curriculum framework. In

1 making this determination, the state board shall consider both the
2 framework and the submitted instructional materials as a whole.

3 (2) Comply with the requirements of Sections 60040, 60041,
4 60042, 60043, 60044, 60048, 60200.5, and 60200.6, and the state
5 board's guidelines for social content.

6 (3) Are factually accurate and incorporate principles of
7 instruction reflective of current and confirmed research.

8 (4) Are aligned to the content standards adopted by the state
9 board in the subject area and the grade level or levels for which
10 they are submitted.

11 (5) Do not contain materials, including illustrations, that provide
12 unnecessary exposure to a commercial brand name, product, or
13 corporate or company logo. Materials, including illustrations, that
14 contain a commercial brand name, product, or corporate or
15 company logo may not be used unless the state board determines
16 that the use of the commercial brand name, product, or corporate
17 or company logo is appropriate based on one of the following
18 specific findings:

19 (A) If text, the use of the commercial brand name, product, or
20 corporate or company logo in the instructional materials is
21 necessary for an educational purpose, as defined in the guidelines
22 or frameworks adopted by the state board.

23 (B) If an illustration, the appearance of a commercial brand
24 name, product, or corporate or company logo in an illustration in
25 instructional materials is incidental to the general nature of the
26 illustration.

27 (6) Meet other criteria as are established by the state board as
28 being necessary to accomplish the intent of Section 7.5 of Article
29 IX of the California Constitution and of Section 1 of Chapter 1181
30 of the Statutes of 1989, provided that the criteria are approved by
31 resolution at the time the resolution adopting the framework for
32 the current adoption is approved, or at least 12 months before the
33 date that the materials are to be approved for adoption.

34 (d) If basic instructional materials are rejected, the state board
35 shall provide a specific, written explanation of the reasons why
36 the submitted materials were not adopted, based on one or more
37 of the criteria established under subdivision (c). In providing this
38 explanation, the state board may use, in whole or in part, materials
39 written by the Superintendent or any other advisers to the state
40 board.

1 (e) The state board may adopt fewer than five basic instructional
2 materials in each subject area for each grade level if either of the
3 following occurs:

4 (1) Fewer than five basic instructional materials are submitted.

5 (2) The state board specifically finds that fewer than five basic
6 instructional materials meet the criteria prescribed by paragraphs
7 (1) to (5), inclusive, of subdivision (c), or the materials fail to meet
8 the state board's adopted curriculum framework. If the state board
9 adopts fewer than five basic instructional materials in any subject
10 for any grade level, the state board shall conduct a review of the
11 degree to which the criteria and procedures used to evaluate the
12 submitted materials for that adoption were consistent with the state
13 board's adopted curriculum framework.

14 (f) This section does not limit the authority of the state board
15 to adopt materials that are not basic instructional materials.

16 (g) Consistent with the quality criteria for the state board's
17 adopted curriculum framework, the state board shall prescribe
18 procedures to provide the most open and flexible materials
19 submission system and ensure that the adopted materials in each
20 subject, taken as a whole, provide for the educational needs of the
21 diverse pupil populations in the public schools, provide collections
22 of instructional materials that illustrate diverse points of view,
23 represent cultural pluralism, and provide a broad spectrum of
24 knowledge, information, and technology-based materials to meet
25 the goals of the program and the needs of pupils.

26 (h) Upon making an adoption, the state board shall make
27 available to listed publishers and manufacturers and all school
28 interests a listing of instructional materials, including the most
29 current unit cost of those materials as computed pursuant to existing
30 law. Items placed upon lists shall remain thereon, and be available
31 for procurement through the state's systems of financing, from the
32 date of the adoption of the item and until a date established by the
33 state board. The date established by the state board for continuing
34 items on that list shall be the date on which the state board adopts
35 instructional materials based on a new or revised curriculum
36 framework. Lists of adopted instructional materials shall be made
37 available by subject and grade level to school districts and posted
38 on the department's Internet Web site, and shall include
39 information from the reports of findings from the review
40 committees pursuant to paragraph (4) of subdivision (b). The lists

1 shall terminate and shall no longer be effective on the date
2 prescribed by the state board pursuant to this subdivision.

3 (i) The state board may approve multiple lists of instructional
4 materials, without designating a grade or subject, and the state
5 board may designate more than one grade or subject whenever it
6 determines that a single subject designation or a single grade
7 designation would not promote the maximum efficiency of pupil
8 learning. Any materials so designated may be placed on single
9 grade or single subject lists, or multigrade or interdisciplinary lists,
10 or may be placed on separate lists including other materials with
11 similar grade or subject designations.

12 (j) A composite listing in the format of an order form may be
13 used to meet the requirements of this section.

14 (k) The lists maintained pursuant to this section shall not be
15 deemed to control the use period by any school district.

16 (l) The state board shall give publishers the opportunity to
17 modify instructional materials, in a manner provided for in
18 regulations adopted by the state board, if the state board finds that
19 the instructional materials do not comply with paragraph (5) of
20 subdivision (c).

21 (m) This section does not prohibit the publisher of instructional
22 materials from including whatever corporate name or logo on the
23 instructional materials that is necessary to provide basic
24 information about the publisher, to protect its copyright, or to
25 identify third-party sources of content.

26 (n) The state board may adopt regulations that provide for other
27 exceptions to this section, as determined by the state board.

28 (o) The Superintendent shall develop, and the state board shall
29 adopt, guidelines to implement this section.

30 SEC. 2. Section 60227 is added to the Education Code, to read:

31 60227. (a) For purposes of this section, a ~~follow-up~~ *followup*
32 adoption is any adoption other than the primary adoption that
33 occurs within the eight-year cycle established pursuant to
34 subdivision (b) of Section 60200.

35 (b) Before conducting a ~~follow-up~~ *followup* adoption in a given
36 subject area, the department shall post an appropriate notice on
37 the department's Internet Web site pursuant to subdivision (c) and
38 notify all publishers or manufacturers known to produce basic
39 instructional materials in that subject area.

1 (c) The notice shall specify that each publisher or manufacturer
2 choosing to participate in the ~~follow-up~~ *followup* adoption shall
3 be assessed a fee based on the number of programs the publisher
4 or manufacturer indicates will be submitted for review and the
5 number of grade levels proposed to be covered by each program.

6 (d) The fee shall offset the cost of conducting the ~~follow-up~~
7 *followup* adoption process and shall reflect the department's best
8 estimate of the cost. The department shall take reasonable steps
9 to limit costs of the ~~follow-up~~ *followup* adoption and to keep the
10 fee modest, recognizing that some of the work necessary for the
11 primary adoption need not be duplicated.

12 (e) The department, before incurring substantial costs for the
13 ~~follow-up~~ *followup* adoption, shall require that a publisher or
14 manufacturer who wishes to participate in the ~~follow-up~~ *followup*
15 adoption first declare the intent to submit one or more specific
16 programs for the ~~follow-up~~ *followup* adoption and specify the
17 specific grade levels to be covered by each program. After a
18 publisher or manufacturer has declared the intent to submit one or
19 more programs and the grade levels to be covered by each program,
20 the department shall assess a fee. The fee shall be payable by the
21 publisher or manufacturer even if the publisher or manufacturer
22 subsequently chooses to withdraw a program or reduce the number
23 of grade levels covered. A submission by a publisher or
24 manufacturer shall not be reviewed for purposes of adoption, either
25 in a ~~follow-up~~ *followup* adoption or in any other primary or ~~follow~~
26 ~~up~~ *followup* adoption conducted thereafter, until the fee assessed
27 has been paid in full.

28 (f) (1) It is the intent of the Legislature that the fee not be so
29 substantial that it prevents small publishers or manufacturers from
30 participating in a ~~follow-up~~ *followup* adoption.

31 (2) Upon the request of a small publisher or manufacturer, the
32 state board may reduce the fee for participation in the ~~follow-up~~
33 *followup* adoption.

34 (3) For purposes of this section, "small publisher" and "small
35 manufacturer" mean an independently owned or operated publisher
36 or manufacturer who is not dominant in its field of operation, and
37 who, together with its affiliates, has 100 or fewer employees, and
38 has average annual gross receipts of ten million dollars
39 (\$10,000,000) or less over the previous three years.

(g) Revenue derived from fees charged pursuant to subdivision (e) shall be budgeted as reimbursements and subject to review through the annual budget process and may be used to pay costs associated with any adoption and any costs associated with the review of instructional materials.

(h) If the department determines that there is little or no interest by publishers and manufacturers in participating in a ~~follow-up~~ *followup* adoption, the department shall recommend to the state board that the ~~follow-up~~ *followup* adoption not be conducted and the state board may choose not to conduct the ~~follow-up~~ *followup* adoption.

(i) *General fund revenue shall not be used for the cost of conducting a followup adoption pursuant to this section.*

~~(i)~~

(j) This section shall remain in effect only until January 1, 2024, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2024, deletes or extends that date.